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Starpower services are generally
not available in the 'fire zone'
areas of the District



CABLE TELEVISION REPORT 2003



District of Columbia Office of Cable Television and Telecommunications (OCTT)

James D. Brown, Jr.
Executive Director

Anthony A. Williams
Mayor

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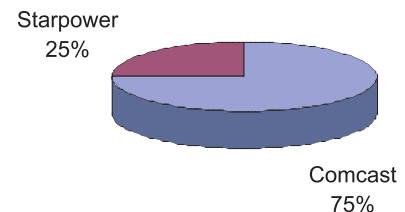
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September 30, 2003

CABLE TV PENETRATION CONTINUES TO GROW IN THE DISTRICT

The competition between Comcast and Starpower for cable television subscribers in most areas of the District kept cable rates steady throughout 2002. More importantly, this competition continues to yield growth in the number of District residents who are choosing cable service generally. According to data compiled by OCTT from SkyTrends and the cable providers, out of the estimated 216,780 television households in the District, approximately 129,000 subscribed to cable television in 2002, a nearly 6% increase from 2001.

Cable Competition in the District as of April 2003



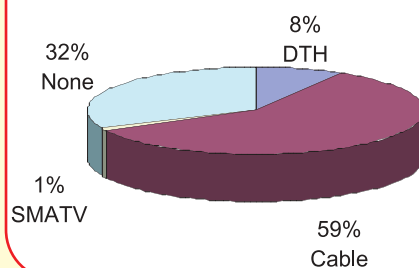
Of the two cable providers in the District, Comcast retained the largest number of subscribers, providing service to approximately 97,000, or 44%, of total television households in 2002, an increase of approximately 3,000 subscribers from 2001. In 2002, Starpower had approximately 32,000 subscribers, an increase of approximately 7,000 subscribers from 2001. Though its services are not yet fully available in some areas of the District, Starpower scored a higher rate of increase in subscriptions than Comcast most likely because it offers bundled services, including high-speed Internet, at a wider and more frequent rate than Comcast.

Starpower's services are not yet available citywide partly because of a century-old restriction on over-land wire installation in the "fire zone" areas of the District. The "fire zone" covers the entire downtown area and surrounding neighborhoods of Adams Morgan, Capital Hill, Columbia Heights,

Dupont Circle, Eckington, Foggy Bottom, Georgetown, Le Droit Park, Mount Pleasant, Shaw, Southwest, Trinidad, and Woodley Park. See back page for map of 'fire zone' areas.

Overall, OCTT estimates the number of District households without any paid television services whatsoever, cable or satellite, decreased from approximately 71,000 in 2001 to 69,000 in 2002.

Television Service Subscribers in the District as of April 2003





FROM THE DIRECTOR

Much to the credit of the Office of Cable Television and Telecommunications ("OCTT") and its staff, improvement in the quality of cable service in the District is becoming more noticeable. From the inception of cable service in the District in 1985, through sever-

al complex turnovers in cable owner-

ship, to the current competition between two major cable providers, and finally, to the nearly completed modernization of Comcast's cable system citywide, the quality of cable service has never been higher in the District.

In 1998, the District initiated efforts to defray increasing cable subscription charges by permitting Starpower Communications, LLC an open video system ("OVS") operator, to compete with cable franchisee AT&T (later acquired by Comcast). In order to maintain this competition, the District awarded a new ten-year franchise to Comcast in 2002, a process that involved the thorough negotiation of a new cable franchise agreement. The agreement requires Comcast to modernize its system, improve customer service, provide in-kind support to the District government's new internal fiber-optics telecommunications network, and contribute 2% of its annual revenues to support the District public, educational, and government channels. Moreover, the recent upgrade of Comcast's District network to be two-way capable has resulted in a unique opportunity for nearly all District residents to have a choice between two providers of cable modem service.

As the District government agency responsible for the enforcement of District and federal cable laws and regulations, and the management of City Cable Channels 13 and 16, OCTT is pleased to keep you informed of its activities. To that end, I have ensured that this annual report contains updates from all of our divisions – regulatory, programming, and operations. Enjoy the reading.

A handwritten signature in black ink that reads "James D. Brown, Jr." in a cursive style.

James D. Brown, Jr.
Executive Director

Note: In July 2003, Mayor Anthony Williams appointed James D. Brown, Jr., formerly OCTT's Director of Programming, as OCTT's Acting Executive Director, replacing Darryl D. Anderson, who returned to Tennessee to become Chief Information Officer for the City of Memphis after his four years of leadership at the agency. We wish Darryl good luck in his new appointment.

CABLE MODEM SUBSCRIBERS ON THE INCREASE

According to data obtained from Comcast and Starpower, there has been an increase of about 30 percent in the number of high-speed Internet subscribers in the District from 2001. Both Comcast and Starpower have added high speed Internet service to their cable television service. Cable modem is a faster alternative to dial-up Internet access or Digital Subscriber Line (DSL) service provided by the telephone company.

As District residents who subscribe to cable modem have already discovered, cable modem offers other advantages over dial-up connection. It eliminates the need for extra telephone lines, the problems of hang-up or busy signals, and most importantly, the need for an Internet service provider (ISP).

Starpower has offered cable modem service to District customers since it commenced service in 1998. Its services are not available in the "fire zone" areas where it generally does not provide any service at all. In all other areas of the District, Starpower currently offers bundled services, which include cable modem, cable television, and telephone. In addition to its cable service, Comcast commenced cable modem service in 2001. Because of the completion of its citywide upgrade, Comcast's high-speed Internet service is now available in nearly all areas of the District.

According to the Cable Modem Information Network, a research group dedicated to broadband issues, advancements in fiber optic technology have availed cable companies an unlimited capacity for data, video and voice transmission. A nominal amount of the fiber optic network capacity is now used for video service and, if at all, voice; therefore, cable companies are able to transmit data over their networks at substantially faster rates than data transmitted over the telephone companies' networks. In marketing their cable modem service, cable companies boast of the ability to transmit data at rates of up to five million bits per second (mbps), "100 times" faster than dial-up Internet connections. In reality, and depending upon the number of users at any particular time, the speed is about 1mbps, or about twenty times faster than a typical 56,000-bits-per-second (56kbps) dial-up connection. DSL services generally max out at 1.5 mbps. Comcast recently announced that it would double Internet access speed to 3 mbps at the end of 2003, and Starpower has committed to a similar goal.



CABLE FRANCHISE IS THE LAW IN THE DISTRICT

The D.C. City Council has the authority to permit the use of the District's public rights-of-way for the provision of cable television service to District residents through a cable system or an open video system ("OVS").

One might ask what the differences are between a cable system and an OVS or whether there are technical advantages to subscribing to one and not the other. The answer is that there are no technical differences between the two systems; they both provide video programming to subscribers over a transmission network constructed on the public rights-of-way. The law, however, treats them differently. Congress created the OVS framework to allow public utility companies such as Starpower, a joint venture between RCN Corporation and Pepco, to provide video programming in competition with traditional cable companies such as Comcast. To that end, Congress attempted to shield OVS operators from what it considered cumbersome local regulations, such as franchise and buildout requirements.

The major aspect of the congressional protection, that an OVS is not required to obtain a local franchise before providing service, attempted to limit a local authority's ability to regulate an OVS operator.

Local authorities nationwide opposed the regulatory confinement and some of them sued to have the law nullified.

In the landmark 1999 case of *City of Dallas v. FCC*, the Court of Appeals for the Fifth Circuit sided with the local authorities. Specifically, the court ruled that congressional intent to ease the entrance of utility companies into the cable television market did not dispose of local authorities' right to regulate the use of their rights-of-way. As such, a local authority may require an OVS operator to obtain a local franchise. Accordingly, the District has enacted in its new cable law requirements that an OVS operator obtain a franchise before providing services to District residents and that OVS operators must abide by the District's customer service regulations.

The Council has awarded a ten-year franchise to Comcast and an interim OVS license to Starpower to provide cable services in the District. In both cases, the authority to provide cable service is subject to certain obligations and responsibilities set forth in either a cable television franchise agreement or an OVS agreement. Both agreements contain similar requirements, such as the payment of a franchise fee of 5% of annual gross revenues; capital and fiscal support for public, educational, and government access television; contracting with, and procurement from, local

See **Cable Franchise**, Pg. 4, col. 2.

NO MORE DANGLING WIRES

In 2002, OCTT hired a full-time cable inspector in response to complaints regarding the maintenance of cable wires and other facilities in the District. Cable operators are required by law to maintain their systems and perform system construction safely. Now, OCTT can perform on-site assessment of down drops and low hanging wires and survey the physical plants of Comcast and Starpower citywide. OCTT was unable to aggressively perform these regulatory functions before its hiring of the District's first-ever cable inspector.

As the title indicates, OCTT's cable inspector is responsible for inspecting cable facilities, including cable wires, head-ends, and transmission pedestals, to ensure cable operators' compliance with the law. The authority for this responsibility derives in part from D.C. Code Section 34-1259.01, which subjects cable operations and construction to District inspection.

The cable inspector often responds to complaints from residents who have noticed irregular activities by cable construction workers or installers. Sometimes it is a dangling cable wire or an

odd-looking cable transmission pedestal that catches the attention of an observant member of the public. In any case, OCTT dispatches its cable inspector, armed with a camera, a transmission meter and other necessary equipment to inspect the facility and document her observations. OCTT reports the results of the inspections to the appropriate cable operator and demands immediate repairs. OCTT is currently reviewing a process of "ticketing" cable operators for illegal installation or construction and for failure to properly maintain their installations.



CITY CABLE CHANNELS 13 AND 16 RANK HIGH

Here is an open invitation from OCTT to DC residents to tune to City Cable Channels 13 or 16 and compare the quality of the channels with that of commercial television. Most viewers will agree that the city channels surpass many commercial channels in picture quality, editing, and graphics.

In programming the city channels, OCTT has attained a premier ranking among the nation's top municipal television channel programmers and managers. This is evidenced by numerous awards won by OCTT. They include two programs, "Seniors with Attitude" and "City Line: Columbia Hospital for Women," which placed first in their respective categories at the 17th annual government programming awards presented by the National Association of Telecommunications Officials and Advisors ("NATOA") in 2002. In addition, Sterling McCormick, OCTT's graphics/animation designer, was recognized by the prestigious Beacon Foundation for his work, as seen exclusively on the city channels.

City Cable Channel 13 is programmed by OCTT to bring residents live Council hearings, Councilmembers' constituent activities such as town hall meetings and ward forums, and other special Council events. This coverage has been expanded to webcast live over the Internet so viewers worldwide can watch Council proceedings at OCTT and Council websites.

City Cable Channel 16 now contains many informative and entertaining programs (See page 7: Show Descriptions) in addition to the coverage of municipal events and mayoral activities. Among the channel's accomplishments in 2002 was teaming up with the District's Department of Employment Services to produce and cablecast "Keeping it Real," a youth oriented program highlighting local talents and discussing youth issues in the city. In addition, the channel collaborated with the District's Commission on the Arts and Humanities to produce an arts program profiling District artists who cannot afford similar exposure on commercial media outlets. The channel also worked in partnership with the Metropolitan Washington Council of Governments ("COG") to produce a show focusing on regional issues. These are examples of the channel's increasing capacity to produce programs and public service announcements for other District agencies, including programs produced on behalf of the State Education Office, Department of Motor Vehicles, Housing Finance Agency, and the Housing Authority.

Cable Franchise, *cont'd from pg. 3, col. 2*

small, and disadvantaged business enterprises; hiring of District residents; and compliance with the District's strict customer service standards.

According to documents and data provided by Comcast and Starpower for the annual evaluation of their performance, OCTT has determined that both companies substantially complied with the terms of their agreements and the law in calendar year 2002.

DISTRICT CABLE PROVIDERS INTRODUCE HDTV

Cable competition in the District has resulted in District residents being among the first to experience the latest in advanced television service – high definition television (HDTV).

Comcast and Starpower have introduced HDTV into their lineups. However, there is a caveat. A customer wishing to receive HDTV channels may have to pay an additional monthly fee and the service may require a new or different converter box and a television set capable of receiving HDTV signals.

Currently, Starpower, which launched its HDTV service in June 2003, offers a lineup that includes the reception of broadcast channels such as ABC, CBS, NBC, FOX and PBS in HDTV format, and the HDTV version of premium movie channels such as HBO and Showtime if the customer subscribes to such movie channels. The lineup also includes the HDTV versions of ESPN, HDNet, and Discovery for an addi-

tional fee. Comcast's HDTV lineup includes ABC, CBS, NBC, PBS, WETA, WETA-Prime, WETA-Plus, WETA-Kids, and Comcast SportsNet.

Consumers must be careful in buying television sets for HDTV purposes because of complex technical requirements and terminology. For instance, the fact that a television set is described by a retailer as "HDTV Ready" does not mean the set is capable of receiving or displaying HDTV signals without an additional external or integrated tuner or converter. A television set that has an integrated HDTV tuner is usually more expensive and likely has the wide-screen format. Whether buying a television set with an integrated HDTV tuner or buying an external HDTV tuner separately, consumers must always be careful in making sure the tuner meets their cable provider's HDTV technical specifications.



DISTRICT'S **CABLE LAW** REVAMPED

Head-to-head cable competition is increasingly rare, but once achieved, it must be adequately supported by the law. This led OCTT to revamp the antiquated District cable law by proposing the Cable Television Reform Amendment Act of 2002, which became effective in October 2002 as D.C. Law 14-193. The new law addresses traditional cable issues such as franchise transfer and renewal, enhanced government oversight, and much more.

One of OCTT's major goals was to critically review the District's original cable act, the Cable Television Communications Act of 1981. In addition, the contentious and disruptive transfer of the District's cable franchise from District Cablevision to AT&T in 1999 and later to Comcast in 2000 showed that the District lacked sufficient legal authority to address modern cable television regulatory and enforcement issues. The original cable law focused on problems unique to the initiation of cable television by a monopoly provider in the District in 1985. The law also had been amended more than 25 times over the years, leaving the act confusing and laden with outdated provisions.

As such, OCTT concluded that from the protracted initial cable franchise award in the mid-1980's to the controversial franchise transfers, many of the problems encountered by the District in regulating the cable industry were attributable to deficiencies in the cable act itself. Hence, the changes to the District's cable act needed not only to account for changes in the cable television landscape over the past 20 years but also to anticipate future changes.

Consequently, OCTT proposed a comprehensive amendment to the existing cable act, rather than piecemeal revisions. That process allowed the District to update the useful parts of the

law and to discard inconsistent provisions. The new cable act promotes cable competition in the District by providing clear guidelines and requirements for additional cable providers. It also addresses traditional areas such as the Council's franchising authority; the initial franchise award process; franchise fees; the franchise transfer process; and cable operator customer service.

The new cable law also contains clear assessment criteria to measure the viability of a cable operator seeking an initial cable franchise from the District government. It establishes a three-step process that unequivocally expresses the District's expectations regarding high-quality cable service from all providers. The new law also provides a process that preserves the rights of the District under a franchise agreement in any franchise transfer. In order to ensure that District residents are afforded quality cable services from current and future cable providers, the new law requires cable signals to be at least 750 MHz and be capable of providing high-speed Internet access. In addition, under the new law, the District may assess the performance of a cable operator before renewing its franchise, and the Council may act to revoke a franchise for willful and repeated violation of the cable law. The new law provides thorough protections of customers' privacy rights, an important provision as cable TV technology becomes more interactive while capturing customer-specific information. Similarly, the new act contains a strong cable theft provision designed to discourage the unauthorized reception of cable service. Most importantly, the new law authorizes the issuance of rules for heightened enforcement of customer service violations, allowing OCTT to issue customer service regulations to provide specific penalties for customer service violations. OCTT issued the rules in July 2002.

Undoubtedly, the new law goes a long way to establish an efficient framework to meet the current and future challenges of regulating cable television in the District.

THINK BEFORE YOU **STEAL** CABLE

District residents who are convicted of unauthorized use of cable service may face jail time. D.C. Code Section 34-1264.02, in place since October 2002, contains new penalties for cable theft. The law prohibits the use of any device to receive cable programming or other services without paying for them. The law also makes it a criminal offense to advertise, manufacture, or sell descrambler and similar devices in the District. Descrambler devices allow people to receive signals encrypted by cable operators and designed to prevent unauthorized reception.

The penalties for violating this law are very stiff. A person found guilty of stealing cable faces up to \$5,000 in fines or up to a one-year imprisonment. If a person is found to have profited from cable theft, a fine of up to \$10,000 or a jail term of up to ten years may be imposed. A person convicted of cable theft three times within a ten-year period may face up to ten years imprisonment. In addition, cable operators may seek civil remedies, using a guilty judgment or plea bargain agreements as evidence.

A person charged with cable theft may plead an affirmative defense under certain circumstances, such as when a cable operator fails to disconnect timely after a request, or when an operator fails to disconnect at the end of occupancy and a new occupant moves in without knowledge of the existing service.

The District's tough cable theft provision was mentioned in the *Washington Post's* "Consummate Consumer" column on June 17, 2003.

OCTT FOLLOWS THE MONEY

The District cable law requires Comcast, Starpower, or any other entity authorized to provide cable service within the city, to pay 5% of its annual gross revenues to the District as franchise fees. Any franchise or OVS agreement must reflect this requirement. The franchise fees are used by OCTT to regulate cable service and to provide programming on Cable Channels 13 and 16. Therefore, ensuring that cable providers pay the correct amount of franchise fees on a timely basis is critical. In 2002, Comcast paid \$3,136,464 in franchise fees, and Starpower paid \$916,877.69.

An obvious problem in enforcing the payment of franchise fees is that the definition of "gross revenues" as an accounting term may take different shapes and forms. It all depends on who is doing the calculation. It is for this reason that the District's franchise and OVS agreements specifically define "gross revenues" and require an independent audit of the cable providers' books to ensure strict adherence to such definition. For instance, Comcast's franchise agreement allows OCTT to audit and re-compute the total annual gross revenues reported by Comcast and the franchise fee payable by the company. Such audit must be conducted within 12 months immediately following the close of each fiscal year. Comcast must pay any additional amounts discovered by the audit within 30 days of a written notice from OCTT. As penalty, Comcast will be responsible for the auditors' fee if the audit reveals that Comcast has underpaid its franchise fee liability by four percent or more. To that end, OCTT recently completed the audit of franchise fees paid by Comcast during 2001 and 2002.

The audit was conducted by the accounting firm of Sakyi & Associates. The accounting firm was selected by the District's Office of Contracting and Procurement through a competitive bidding process. Among other objectives, Sakyi & Associates checked the accuracy, completeness, and reliability of gross revenue and franchise fee information reported by Comcast during the audit period. Sakyi & Associates submitted its final report to OCTT in September 2003. The report showed that Comcast underpaid its franchise fees. In addition, Sakyi & Associates recommended certain changes regarding Comcast's billing system and its policies and procedures for recording and classifying revenues.

A similar audit is planned for Starpower in 2004.

CONSUMER'S BILL OF RIGHTS

As a District cable television consumer, you have the following rights:

- Consumers are entitled to receive high-quality cable television service, including a clear picture and programming that meets consumer needs.
- Consumers should expect to be notified at least 48 hours in advance of any scheduled interruption of cable television service.
- Consumers have the right to receive dependable service, free of unnecessary outages. Consumers shall be credited one-day's worth of service upon request for any service outage over 4 hours, and automatically for any outage over 12 hours.
- Consumers are entitled to receive at least 30 days notice prior to any changes in programming, channel line-up, rates or terms of service.
- Consumers have the right to speak with a customer service representative by telephone within a reasonable amount of time or in person and receive courteous, professional and knowledgeable assistance from such representative.
- Consistent with applicable law, consumers are entitled to request and to receive an appointment within 7 days of ordering service for a standard installation or upgrade of services.
- Consumers are entitled to the prompt repair of service interruption or television reception problems. Total loss of picture shall be repaired within 24 hours of a consumer's notification to a cable operator. All other reception problems must be repaired within 48 hours of consumer's request.
- Consumers are entitled to schedule service appointments to occur within a reasonable period of the day and not to exceed a 4-hour appointment window.
- Consumers have the right to an accurate monthly bill that contains all pertinent information including: payment due date, an itemized listing of all charges and fees and the late fee assessment date.
- Consumers have the right to disconnect service at no charge, except for the payment of any outstanding account balance.
- Consumers are entitled to have appointments honored by the cable operator. An appointment may not be cancelled by the cable operator after close-of-business of the day prior to the appointment without reasonable attempts to contact the consumer on location.
- Consumers are entitled to receive a copy of the work order describing all work performed during an appointment.
- Spanish-speaking consumers have the right at all times to speak to a Spanish-speaking service representative.



The following is a list of City Channel 16 regularly scheduled programs:

ASK THE MAYOR

See the best radio on television! More and more District residents are calling in live to WTOP Radio's monthly program *Ask the Mayor*, because what you hear -- is what you get! Live and unedited! Hosted by WTOP's Bruce Alan, the televised radio show features esteemed journalists from around the region. Viewers get an opportunity to watch the Mayor responding to questions on all the important issues, including the budget, congressional representation, street repair, commuter tax, economic development, education, housing and more.

DC IN ACTION

The District's top events and news stories are spotlighted on *DC In Action*. The *DC In Action* video packages air throughout the day, covering a myriad of topics, including politics, economic development, government services, cultural events, and technology. Tune in to see your government in action.

CITYLINE

Modern technology has boosted healthcare innovations. Every month, *City Line* takes you beyond the headlines to a comprehensive look at the latest developments in health, fitness and nutrition. From workouts that really work to major medical breakthroughs, tune to *City Line* for viewer-friendly information about disease prevention and treatment.

ASK THE CHIEF

Much like *Ask the Mayor*, this monthly call-in show features Police Chief Charles Ramsey as he discusses crime and public safety issues on WTOP Radio. Expect to hear the Chief discuss police and community relationships and traffic solutions. This unique radio talk show is televised exclusively on Channel 16.

REPORTER'S ROUNDTABLE

Tune in to *Reporter's Roundtable* for in-depth discussions by some of Washington's most respected journalists. Hosted by Denise Rolark Barnes of *The Washington Informer*, the show tackles top news items affecting District residents. Viewers will hear perspectives by panelists like Hamil Harris of *The Washington Post* and Deborah Simmons of *The Washington Times*. The show takes you beyond the local headlines as these respected journalists debate how latest news affect District residents. Get the full story on *Reporter's Roundtable* twice daily at 11 am and 7 pm.

CAPITAL CINEMA

Lights, camera, action! Watch award-winning *Capital Cinema* to find out why the District is becoming a major filmmaking city. Host Ferman Patterson gives viewers a fascinating behind the scenes look at the District's multi-million dollar cinema industry. Each month *Capital Cinema* covers major films and television programs produced in Washington, and spotlights the work of local independent filmmakers, talent, production crew, and services. The program also provides valuable information on how District residents can break into the filmmaking business with candid advice from directors, producers and various industry representatives. Keep your eyes on *Capital Cinema* for informative and entertaining look at the moviemakers and shakers in Washington.

IN STYLE WASHINGTON

With style, elegance and sophistication, hostess Gwendolyn Russell gives viewers the ultimate tour of Washington's finest hotels, restaurants, boutiques and special events. Tune into the hugely popular *In Style Washington* show and enter a world of impeccable service, luxurious accommodations and exquisite cuisine. Do not miss the famous faces and glamorous places featured in each exciting episode of *In Style Washington*. Whether personalities or parties, if it's in style, it is in Washington!

DC ARTS ALIVE!

The District's arts scene is alive! Each month *DC Arts Alive!* explores the many people, spaces and places that comprise the local arts scene. From experiencing different genres of dance to hearing exciting music performances and even slam poetry-- tune in to discover the many sights and sounds of Washington's most talented artists.

COG: OUR REGION AND HOMELAND SECURITY

The tragic events of September 11, 2001 have forever changed the security landscape of the Washington metropolitan area. City Cable 16 is proud to present *Our Region and Homeland Security*, a new show from the Metropolitan Washington Council of Governments (COG). In a series of six shows hosted by COG's executive director, government leaders discuss the importance of regional emergency preparedness and coordination of communications, healthcare, transportation, economic development, and community readiness.

